

**R E M A R K S**

Reconsideration of this application, as amended, is respectfully requested.

**RE: CLAIM 1**

Independent claim 1 has been amended to more clearly and positively recite the features of the present invention in better U.S. form.

No new matter has been added, and it is respectfully requested that the amendments to claim 1 be approved and entered.

It is respectfully submitted, moreover, that amended independent claim 1 is in full compliance with the requirements of 35 USC 112, and it is respectfully requested that the rejection thereunder be withdrawn.

Still further, it is respectfully submitted that the amendments to claim 1 are clarifying in nature only, and do not narrow the scope of the claims either literally or under the doctrine of equivalents.

**RE: WITHDRAWN CLAIMS 2-4**

Withdrawn claims 2-4 have also been amended to more clearly and positively recite the features of the present invention in better U.S. form.

In addition, claims 3 and 4 have been amended to depend from claim 1.

No new matter has been added, and it is respectfully requested that the amendments to claims 2-4 be approved and entered.

It is respectfully pointed out, moreover, that withdrawn claims 2-4 depend from elected independent claim 1, and it is respectfully requested that upon allowance of claim 1, claims 2-4 also be considered on the merits and allowed.

RE: NEW CLAIMS 5-7

New claims 5 and 6 have been added to recite additional features of the elected species of Fig. 1.

In addition, new independent claim 7 is directed to the elected species of Fig. 1.

No new matter has been added, and it is respectfully requested that new claims 5-7 be approved and entered.

THE PRIOR ART REJECTION

Claim 1 was rejected under 35 USC 102 as being anticipated by JP 2000-230255 ("Sagi"). This rejection, however, is respectfully traversed with respect to the claim 1 as amended hereinabove.

Sagi discloses a construction machine which is provided with, at an upper framer thereof, a support capable of protecting a driver's cab from being damaged at the time of overrun. Sagi is described, for example, at page 2 of specification. However, as explained at the bottom of page 2 of the specification, Sagi does not disclose a structure capable of performing protection if the machine does not merely overturn but tumbles.

According to the present invention as more clearly recited in amended independent claim 1 (and according to the present invention as recited in new independent claim 7), a lightweight structure is provided which can restrict deformation of the operator's cab even in the event that the construction machine tumbles. The structure recited in amended independent claim 1 and the structure recited in amended independent claim 7, moreover, can be provided at low production cost and can maintain good visibility from the operator's cab.

It is respectfully submitted that Sagi does not disclose, teach or suggest the structure of the present invention as recited in amended independent claim 1, or the structure of the present invention as recited in new independent claim 7.

Accordingly, it is respectfully submitted that amended independent claim 1, claims 2-6 depending therefrom, and new independent claim 7, all clearly patentably distinguish over Sagi, under 35 USC 102 as well as under 35 USC 103.

In view of the foregoing, entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

/Douglas Holtz/

Douglas Holtz  
Reg. No. 33,902

Frishauf, Holtz, Goodman & Chick, P.C.  
220 Fifth Avenue - 16<sup>th</sup> Floor  
New York, New York 10001-7708  
Tel. No. (212) 319-4900  
Fax No. (212) 319-5101

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